

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DION TEMPLE,	:	CIVIL ACTION NO. 3:CV-10-2553
	:	
Petitioner	:	(Judge Nealon)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
VITO P. GEROULO, et al.,	:	
	:	
	:	
Respondents	:	

**REPORT AND RECOMMENDATION**

**I. Background.**

On December 16, 2010, Petitioner Dion Temple, an inmate at SCI-Fayette, filed a 2-page handwritten petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (**Doc. 1**). On January 3, 2011, Petitioner filed a Motion for Leave to proceed *in forma pauperis*. (**Doc. 4**). Named as Respondents are Vito P. Geruolo, a Judge of the Lackawanna County Court of Common Pleas, and the Lackawanna County Court of Common Pleas ("CCP").<sup>1</sup>

In his *in forma pauperis* motion, Petitioner did not respond to the questions as to whether he was employed at the prison and if he received income over the past 12 months. Also, Petitioner attached a certified copy of his Inmate Account, which showed that he had the sum of \$34.92 in his prison account as of December 24, 2010. (**Doc. 4**, attachment).

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<sup>1</sup>The Court notes that Petitioner has named improper Respondents. The proper Respondent is the Warden at SCI-Fayette. See 28 U.S.C. § 2242 & §2243. See also *Nunez v. Lindsay*, 2007 WL 706245, \*1, n. 1 (M.D. Pa.) ("The proper Respondent in a petition for writ of habeas corpus is the official having custody of the applicant.").

Based upon Petitioner's incomplete *in forma pauperis* motion, and in particular Petitioner's account balance, we found that Petitioner had sufficient funds to pay the full \$5.00 filing fee in this case. Thus, on January 6, 2011, we issued an Order and directed Petitioner to either pay the full fee of \$5.00 within ten (10) days, or show cause by this date why he is unable to do so. (Doc. 5).

In response to our Order, Petitioner filed an Affidavit with an attached document he styled as a Promissory Note, seemingly agreeing to pay in the future the filing fee in this case. Petitioner noted on the so-called Promissory Note that he is "unemployed, poor" and "canut (sic) pay the amount of \$5.00." (Doc. 6).

Based on Petitioner's filing, we will recommend that Petitioner's *in forma pauperis* motion be granted. (Doc. 4).

The habeas petition has not yet been served on Respondents directing them to address the Petitioner's claims. Petitioner seemingly requests this Court to direct Judge Geroulo of the CCP to rule on his PCRA Petitions and for this Court to direct the CCP to rule on whether the delay with respect to his PCRA Petitions violated his rights under the U.S. Constitution and the Pennsylvania Constitution.

We give preliminary consideration to the petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the U.S. District Courts, 28 U.S.C. foll. § 2254. See *Patton v. Fenton*, 491 F. Supp. 156, 158-59 (M.D. Pa. 1979).<sup>2</sup> We find, based on the face of the habeas

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<sup>2</sup>Rule 4 provides in relevant part: "If it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified."

petition, that Petitioner's March 8, 2010 PCRA Petition and subsequent Amended PCRA Petition have not yet been ruled by the CCP with respect to his Lackawanna County conviction and sentence, and that Petitioner's instant claims have not yet been exhausted in the state courts.<sup>3</sup>

To date, it appears from Petitioner's CCP criminal docket sheet that his Amended PCRA Petition, filed on July 6, 2010, is still pending with the CCP.<sup>4</sup>

## **II. Claims of Habeas Petition.**

Petitioner states that he filed his first PCRA Petition on February 19, 2008, with the CCP and that on June 4, 2009, Respondent Judge Geroulo granted his PCRA Petition in part and reinstated his appellate rights. Petitioner states that Judge Geroulo did not indicate specifically if

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<sup>3</sup>The habeas statute requires a prisoner to exhaust his claims in state court before seeking relief from federal courts. 28 U.S.C. § 2254(b)(1)(A); see also *Landano v. Rafferty*, 897 F.2d 661, 668 (3d Cir. 1990). It is well settled in the Third Circuit that the Court has discretion to raise procedural issues, such as exhaustion of state court remedies, in habeas cases, and it may do so *sua sponte*. See *Sweger v. Chesney*, 294 F.3d 506, 520-521 (3d Cir. 2002), *cert. denied*, 538 U.S. 1002 (2003); *Holden v. Mechling*, 2005 WL 1219860 (3d Cir.).

We note that Petitioner Temple clearly indicates that he has failed to exhaust his state court remedies, since the CCP has not yet ruled on his March 8, 2010 PCRA Petition. It is plain to see from the habeas petition that Petitioner has not yet exhausted his state court remedies, and we will recommend that his habeas petition be dismissed without prejudice to re-file it after he completes exhaustion.

<sup>4</sup>We obtained a copy of Petitioner Temple's CCP docket sheet in his underlying criminal matter by accessing the following website: <http://ujportal.pacourts.us>. It reveals that Petitioner's Supplement/Amended PCRA Petition was filed on July 6, 2010, and that it is still pending before the Lackawanna County Court of Common Pleas. See *Com. of PA v. Temple*, CP-35-CR-0002381-2006.

Petitioner's CCP docket sheet also reveals that the Commonwealth, via the District Attorney's Office, filed its Answer to Petitioner's Supplement/Amended PCRA Petition on August 5, 2010 in CP-35-CR-0002381-2006. The cover sheet of Petitioner's CCP criminal docket sheet indicates that as of October 18, 2010, Petitioner was still waiting for a PCRA hearing.

We take judicial notice of Petitioner's CCP criminal docket sheet since it is a public state court record. We attach Petitioner's CCP criminal docket sheet to this R&R.

his trial and appellate counsel were ineffective for failing "to file docketing statement or appellate brief." (Doc. 1, p. 1).

Petitioner states that on May 12, 2009, Judge Geroulo appointed Attorney Ben Josielewski as his standby counsel with respect to his PCRA Petition. Petitioner states that he advised the court that he did not want standby counsel for appeal purposes, and that despite this, Judge Geroulo "forced standby counsel on Petitioner to hinder PCRA process, discontinue appeal and PCRA." (Doc. 1, pp. 1-2).

Petitioner states that on March 8, 2010, he re-filed a PCRA Petition and that Judge Geroulo (on March 25, 2010) granted a Rule upon the Commonwealth to show cause why Petitioner's PCRA Petition should not be granted.<sup>5</sup> Petitioner states that he then filed an Amended PCRA Petition (on July 6, 2010) even though Judge Geroulo never granted him leave to amend. Petitioner states that the Commonwealth's response to his PCRA Petition and Amended PCRA (filed on August 5, 2010) was not adequate. (*Id.*, p. 2).

Petitioner states that Judge Geroulo refuses to "give an opinion on [his] PCRA Petition and is delaying/controlling skillfully the entire PCRA process." (*Id.*, p. 2). Petitioner claims that the conduct of Judge Geroulo and the inordinate delay in ruling on his PCRA Petitions is violating his constitutional rights, including his rights under both the U.S. Constitution and the Pennsylvania Constitution.

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<sup>5</sup>Petitioner's CCP criminal docket sheet verifies these facts.

As relief, Petitioner seems to request this Court to direct the CCP to rule on his pending PCRA Petitions and for this Court to direct the CCP to rule on his alleged constitutional violations due to the delay in making a decision. (*Id.*).

### III. Discussion.

Petitioner's CCP criminal docket sheet indicates that on May 2, 2007, Petitioner was found guilty of eight criminal violations including various counts of manufacturing/delivery/possession with intent to deliver a controlled substance, criminal use of communication facility, and criminal conspiracy with respect to the manufacturing/delivery/possession with intent to deliver a controlled substance. Petitioner was sentenced by Respondent Judge Geroulo on August 28, 2007 to a term of imprisonment.

Petitioner Temple's habeas petition is difficult to comprehend, but insofar as he is deemed as claiming that Attorney Josielewski, his court appointed standby counsel with respect to his PCRA Petition, is ineffective, this is not a cognizable habeas claim. In *Branch v. Tennis*, 2008 WL3461918, \*4 (E.D. Pa. 8-8-08), the Court stated:

"The ineffectiveness or incompetence of counsel during ... [s]tate collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254." 28 U.S.C. § 2254(i); see also *Abujamal v. Horn*, No. 99-5089, 2001 WL 1609761, at \* (E.D.Pa. Dec.18, 2001) (explaining that "no matter how deficient [state collateral post-conviction] representation was, it can not form the basis for habeas corpus relief, which is available only where a conviction has been obtained 'in violation of the Constitution or laws or treaties of the United States' " (quoting 28 U.S.C. § 2254(a))). Therefore, Branch's four new claims are obviously without merit on federal habeas review.FN3 See, e.g., *Williams v. Folino*, No. 07-1099, 2007 WL 336306, at \*5 (E.D.Pa. Feb. 4, 2008) (holding a layered ineffective assistance of counsel claim not cognizable on federal habeas review); *Sanders v. Palakovich*, No. 06-1107, 2007 WL 1461946, at \*7 (E.D.Pa. May 16, 2007) (holding a layered ineffective assistance of counsel claim not sufficient to establish cause to excuse a procedural default); *Farrar v. Klein*,

No. 05-2663, 2005 WL 3120271, at \*4 (E.D.Pa. Nov.22, 2005) (same).

(Footnote omitted).

Moreover, we do not find Petitioner's instant habeas claims seeking this Court to direct the CCP to rule on his pending PCRA Petitions and to direct the CCP to rule on whether the delay in deciding his PCRA Petitions violated his constitutional rights allege that his CCP conviction and sentence violates any provision of the Constitution or laws of the United States. Rather, Petitioner claims that the CCP's failure to decide his March 8, 2010 PCRA Petition and his July 6, 2010 Amended PCRA Petition violates his constitutional rights both under the U.S. Constitution and the Pennsylvania Constitution. Petitioner's claims are not cognizable in a §2254 habeas petition.

In *Mitchell v. Pitkins*, 2010 WL 1837833, \*2 (E.D. Pa. 4-14-10), the Court stated:

The habeas statute provides that a federal court cannot entertain a habeas petition on any grounds other than that the petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Accordingly, the United States Supreme Court has held that federal courts cannot grant habeas relief based on violations of state law. *Estelle v. McGuire*, 502 U.S. 62, 67-68, 112 S.Ct. 475, 116 L.Ed.2d 385 (1991). Rather, in evaluating the alleged grounds for relief in a habeas corpus petition, the court is limited to federal bases for relief. *Id.* at 68. Moreover, the Third Circuit has indicated that alleged violations of a state constitution are not cognizable in a federal habeas petition. *Reinert v. Larkins*, 379 F.3d 76, 94 n. 4 (3d Cir.2004).

Thus, we find that Petitioner Temple's habeas claims are not cognizable by a federal habeas court. *Id.*

Additionally, it is clear from the habeas petition that Petitioner filed a *pro se* PCRA Petition on March 8, 2010, pursuant to 42 Pa.C.S.A. §§9541, et seq., seeking relief based, in part, on for ineffective assistance of his trial and appellate counsel for failing to file a docketing statement or appellate brief. Petitioner's CCP docket sheet shows that he filed a supplement to his PCRA

Petition on April 16, 2010, and that the Commonwealth filed its Answer to his PCRA Petition on April 23, 2010. Petitioner then filed an Amended PCRA Petition on July 6, 2010, and the Commonwealth filed its Answer on August 5, 2010. Also, Petitioner's CCP docket sheet shows that he has not yet received a hearing and a decision from the Lackawanna County Court on his March 8, 2010 PCRA Petition and his July 6, 2010 Amended PCRA Petition.

Thus, Petitioner's claims raised in his March 8, 2010 PCRA Petition and in his Amended PCRA Petition have not been litigated in the state courts. Therefore, Petitioner's state court remedies are clearly not exhausted, at least with respect to his claims raised in his March 8, 2010 PCRA Petition and in his Amended PCRA Petition. As stated, in his present habeas petition, Petitioner seeks this Court to order the CCP to rule on his PCRA Petitions. Petitioner does not state that he is raising any other claims in his present habeas petition regarding his August 28, 2007 judgment of conviction and sentence in the CCP. Nor does Petitioner indicate if he exhausted any claims in the state courts challenging his CCP conviction and sentence.

In any event, if this Court were to decide Petitioner's instant habeas petition on its merits, then it may have to rule on issues which may currently be pending before the state court on Petitioner's March 8, 2010 PCRA Petition and on his Amended PCRA Petition. We will recommend that in the interests of comity, that the Court refrain from deciding the merits of Petitioner's habeas petition. We will also recommend that, insofar as Petitioner is deemed as challenging his August 28, 2007 judgment of conviction and sentence in the CCP, the Court dismiss Petitioner's habeas petition without prejudice to re-file it once his state court remedies have been exhausted. See *Rivera-Encarnacion v. Folino*, 2009 WL 136184 (M.D. Pa.)(Court dismissed

Petitioner's habeas petition without prejudice to re-file it once his state court remedies were exhausted on the claims contained in his amended PCRA Petition); *Petrov v. Klopotski*, Civil No. 09-0530 (M.D. Pa.). See also *Myers v. Warden of SCI-Albion*, 2010 WL 1838178 (M.D. Pa.) (Court dismissed habeas petition without prejudice to allow the Pennsylvania Supreme Court to rule on Petitioner's Allowance for Appeal regarding the Pennsylvania Superior Court's order affirming the denial of Petitioner's PCRA Petition).

In *Day v. McDonough*, 547 U.S. 198, 126 S.Ct. 1675 (2006), the Court, citing to *Granberry v. Greer*, 481 U.S. 129, 133 (1987), held "that federal appellate courts have discretion to consider the issue of exhaustion despite the State's failure to interpose the defense at the district-court level." 126 S.Ct. at 1682. The *Day* Court indicated that, while the Supreme Court did not decide if federal courts, *sua sponte*, may raise a Petitioner's procedural default, such as failure to exhaust state court remedies, all Courts of Appeals have allowed this, including the Third Circuit in *Sweger v. Chesney*, 294 F. 3d 506, 520 (3d Cir. 2002). *Id.*

It is admitted by Petitioner and revealed by the CCP docket sheet that Petitioner filed, *pro se*, his PCRA Petition with the trial court on March 8, 2010, that he filed an Amended PCRA Petition (on July 6, 2010), and that they are still pending with the trial court. Petitioner's PCRA Petitions may have been timely under state law since he states that the CCP reinstated his appellate rights on June 4, 2009, and the CCP docket sheet verifies this. See 42 Pa. C.S.A. §9545(b)(1).

Thus, Petitioner has not exhausted his state court remedies. After the trial court decides Petitioner's March 8, 2010 PCRA Petition and his Amended PCRA Petition, Petitioner will then be able to file a Notice of Appeal of an adverse decision with the Pennsylvania Superior Court. During



the time Petitioner's PCRA Petitions remain under review with the state courts, his AEDPA statute of limitations will be tolled. See *Dunn v. Wynder*, 2006 WL 2850631, \*2 (M.D. Pa.).

We find that Petitioner's § 2254 habeas petition with this Court should be dismissed without prejudice to re-file it after Petitioner exhausts his state court remedies, *i.e.* his collateral appeal. As the *Dunn* Court noted, "Pennsylvania also has a liberal policy of allowing amendment of a PCRA petition to add new claims, as long as the Petition was filed before the PCRA one-year deadline." 2006 WL 2850631, \*2, n. 4 (citation omitted).

While Petitioner claims that no action on his PCRA Petition has been taken by the CCP, his CCP docket sheet reveals that the Commonwealth filed its response to Petitioner's Amended PCRA Petition on August 5, 2010.

Thus, Petitioner does not demonstrate inordinate delay with respect to his state court collateral appeal since Petitioner only recently filed his Amended PCRA Petition and the Commonwealth only responded to it on August 5, 2010. Also, the CCP docket sheet indicates that Petitioner is still awaiting a hearing with the CCP on his PCRA Petitions.

Therefore, insofar as Petitioner is deemed as claiming exhaustion should be excused since there has been a delay in ruling on PCRA Petitions, we find that the delay is not sufficient to excuse exhaustion. In *Myers*, the Court stated:

In *Wojtczak v. Fulcomer*, 800 F.2d 353 (3d Cir.1986), the Third Circuit Court of Appeals found the passage of thirty-three (33) months between the filing of the petitioner's post-conviction relief petition and his filing of a habeas petition in federal court to be "inordinate" so as to excuse the exhaustion requirement and to require the district court to entertain the habeas petition on the merits. Almost fifteen and one half (15 ½) years later, in *Cristin v. Brennan*, the Third Circuit observed that the thirty-three (33) month delay in *Wojtczak* "remains the shortest delay held to

render state collateral proceedings ineffective for purposes of the exhaustion requirement." 281 F.3d 404, 411 (3d Cir.2002). In *Cristin*, the Third Circuit found the twenty-seven (27) month delay between the filing of a PCRA petition and a federal habeas petition to be insufficient to constitute an "inordinate" delay.

Accordingly, where a twenty-seven (27) month delay has been determined to be insufficient to excuse exhaustion, neither the six (6) month delay that occurred in this case between the filing of a PCRA petition in July 2007 and the filing of the instant petition in January 2008, nor the almost one (1) year delay that occurred between the filing of the PCRA petition and its disposition on June 27, 2008, qualifies as an "inordinate" delay so as to excuse Myers from the exhaustion requirement.

2010 WL 1838178, \*6.

Since Petitioner Temple filed his Amended PCRA Petition with the CCP (*i.e.* about six months ago), and since the state court has not yet ruled on his PCRA Petitions, which continue to toll Petitioner's AEDPA statute of limitations, we see no need to stay this habeas petition pending exhaustion. Based on the circumstances of this case, there is no risk that Petitioner will be precluded from re-filing his habeas petition with this Court well before his § 2254 statute of limitations will expire.

We find that the present habeas petition, to the extent that it is deemed as challenging his August 2007 CCP judgment of conviction and sentence, should be dismissed without prejudice to re-file it after Petitioner Temple completes exhaustion of his collateral appeal. We find that the state appellate courts should first be given the opportunity to resolve the Petitioner's pending PCRA Petitions regarding his CCP conviction and sentence. We also find that the instant habeas petition should be dismissed without prejudice, pending exhaustion of Petitioner's collateral appeal with the CCP and then with the Pennsylvania Courts of Appeals, as opposed to staying this case until

exhaustion is completed. See *Myers, supra*. Since the state courts have not yet had an opportunity to address the merits of Petitioner's PCRA claims attacking his CCP conviction, his present habeas petition should be dismissed without prejudice.

Ordinarily, a state prisoner must exhaust his state court remedies before the federal courts consider the claims. 28 U.S.C. §2254(b); *Rose v. Lundy*, 455 U.S. 509, 515-16 (1982).

In *Dunn*, the Court stated:

Generally, a federal court may not entertain a petition for a writ of habeas corpus unless the petitioner has first exhausted his state court remedies. FN3 *Lee v. Stickman*, 357 F.3d 338, 341 (3d Cir.2004), citing 28 U.S.C. §§ 2254(b) and (c); *Rose v. Lundy*, 455 U.S. 509, 102 S.Ct. 1198, 71 L.Ed.2d 379 (1982). The exhaustion requirement "rests upon the principles of comity and judicial economy [and] provides state courts with an initial opportunity to consider and correct alleged violations of prisoners' rights without disruption from the federal courts." *Hankins v. Fulcomer*, 941 F.2d 246, 249 (3d Cir.1991).

FN3. Exhaustion is excused if there is an absence of available State corrective process[,] or ... circumstances exist that render such process ineffective to protect the rights of the applicant. *Lines v. Larkins*, 208 F.3d 153, 163 (3d Cir.2000), quoting 28 U.S.C. § 2254(b)(1)(B)(i) and (ii). Hence, exhaustion is not required if there is inordinate delay in state procedures, *id.* at 250, or if state officials have obstructed the petitioner's attempts to obtain state remedies." *Id.* at 163, citing *Mayberry v. Petsock*, 821 F.2d 179 (3d Cir.1987).

2006 WL 2850631, \*1; *Lee v. Stickman*, 357 F. 3d 338, 341 (3d Cir. 2004). See also *O'Sullivan v. Boerckel*, 526 U.S. 838, 844-45 (1999); *Parker*, 429 F.3d 61-62; *Shelley v. Patrick*, 2008 WL 2234639 (W.D. Pa.).

Additionally, the *Dunn* Court stated:

A habeas corpus petitioner bears the burden of demonstrating that he has satisfied the exhaustion requirement. *Lines v. Larkins*, 208 F.3d

153, 159 (3d Cir.2000), citing *Lambert v. Blackwell*, 134 F.3d 506, 513 (3d Cir.1997). Petitioner has not exhausted his state court remedies. He currently has pending a PCRA petition in the Mifflin County Court of Common Pleas. It appears that on August 24, 2006, a motion to dismiss the petition was filed by the District Attorney's Office. The motion has not yet been addressed by the county court. This court must allow the PCRA proceedings to conclude before entertaining the pending habeas corpus petition. To avoid the risk that a second 2254 petition will be barred by the expiration of the one-year statute of limitations while Petitioner is exhausting state court remedies, the court must decide whether to stay the instant petition rather than dismiss it. See *Crews v. Horn*, 360 F.3d 146 (3d Cir.2004).

Under 28 U.S.C. § 2244(d)(1), a state defendant has one year to file a 2254 petition. For our purposes, that period starts to run from the date the conviction becomes final, defined in section 2244(d)(1)(A) as the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review. The limitations period is also tolled for the time during which a properly filed application for State post-conviction relief or other collateral review with respect to the pertinent judgment or claim is pending. 28 U.S.C. 2244(d)(2).

Given the procedural history of the state post-conviction proceedings, the court can dismiss this petition rather than stay it because, even on the strictest calculation of the limitations period, Petitioner still has time to return to federal court after exhausting state court remedies.

2006 WL 2850631, \*1-\*2.

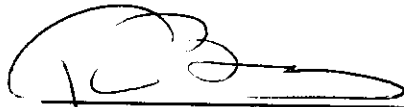
Petitioner Temple should be required to exhaust his claims challenging his Lackawanna County conviction in the Pennsylvania State Courts. Petitioner also requests this federal court to direct the CCP to decide his PCRA Petitions attacking the validity of his conviction, and to direct the CCP to rule on whether his constitutional rights were violated by the delay. As discussed, these are not cognizable habeas claims. In any event, it is clear that insofar as Petitioner is deemed as

challenging his Lackawanna County conviction and sentence, he has not fully exhausted his remedies in the Pennsylvania State Courts.

We find that exhaustion has not been completed in this case and that exhaustion is not futile. We find that Petitioner Temple must exhaust his available state court remedies with respect to his claims challenging his Lackawanna County conviction and sentence. We also find, based on Petitioner's pending state court collateral appeal, that dismissal without prejudice is appropriate as opposed to staying this case. See *Myers, supra*.

#### **IV. Recommendation.**

Based on the foregoing, we respectfully recommend that Petitioner Temple's habeas petition (Doc. 1) be dismissed without prejudice to re-file it after he exhausts his state court remedies. We also recommend that Petitioner's *in forma pauperis* Motion (Doc. 4) be granted.



**THOMAS M. BLEWITT**  
United States Magistrate Judge

Dated: January 7, 2011

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DION TEMPLE,	:	CIVIL ACTION NO. 3:CV-10-2553
	:	
Petitioner	:	(Judge Nealon)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
VITO P. GEROULO, et al.,	:	
	:	
	:	
Respondents	:	

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing  
**Report and Recommendation** dated **January 24, 2011**.

Any party may obtain a review of the Report and Recommendation pursuant to  
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

s/ Thomas M. Blewitt  
**THOMAS M. BLEWITT**  
United States Magistrate Judge

**Dated: January 24, 2011**

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



Docket Number: CP-35-CR-0002381-2006

## CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Dion Temple

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### CASE INFORMATION

Cross Court Docket Nos: CR-0000288-06, 1685 MDA 2007, 1142 MDA 2009, 1201 MDA 2009, 1810 MDA 2010

Judge Assigned:

Date Filed: 09/14/2006

Initiation Date: 08/03/2006

OTN: K5103313

Lower Court Docket No: CR-0000288-06

Initial Issuing Authority: Theodore J Giglio

Final Issuing Authority: Theodore J Giglio

Arresting Agency: Attorney General's Office - BNI Region

Arresting Officer: Davenport, Carol A.

8

Case Local Number Type(s)

Case Local Number(s)

### STATUS INFORMATION

Case Status: Closed

Status Date

Processing Status

Arrest Date:

08/03/2006

01/05/2011

Appeal Decided

10/29/2010

Awaiting Appellate Court  
Decision

10/18/2010

Awaiting Post Conviction Relief  
Act Hearing

12/08/2009

Appeal Decided

06/23/2009

Awaiting Appellate Court  
Decision

11/26/2007

Appeal Decided

09/27/2007

Awaiting Appellate Court  
Decision

08/28/2007

Sentenced/Penalty Imposed

08/21/2007

Awaiting Sentencing

08/21/2007

Awaiting PSI

07/31/2007

Awaiting Sentencing

07/31/2007

Awaiting PSI

05/02/2007

Awaiting Sentencing

05/01/2007

Awaiting Trial

10/25/2006

Awaiting Formal Arraignment

10/24/2006

Awaiting Trial Scheduling

09/14/2006

Awaiting Filing of Information

Complaint Date:

07/26/2006



# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



Docket Number: CP-35-CR-0002381-2006

## CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Dion Temple

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### CALENDAR EVENTS

<u>Case Calendar Event</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Arraignment	09/21/2006	1:30 pm			Scheduled
Sentencing	08/20/2007	1:30 pm		Judge Vito P. Geroulo	Scheduled
Sentencing	08/27/2007	1:30 pm		Judge Vito P. Geroulo	Scheduled

### CONFINEMENT INFORMATION

<u>Confinement</u>	<u>Confinement</u>	<u>Destination</u>	<u>Confinement</u>	<u>Still in</u>
<u>Known As Of</u>	<u>Type</u>	<u>Location</u>	<u>Reason</u>	<u>Custody</u>
09/13/2006	MDJ Confinement	Lackawanna County Prison	Bail Not Posted	Yes
09/13/2006	County Jail	SCI Fayette	Bail Not Posted	Yes

### DEFENDANT INFORMATION

Date Of Birth: 11/01/1971 City/State/Zip: Philadelphia, PA 19120

### CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Defendant	Temple, Dion

### BAIL INFORMATION

Temple, Dion

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	08/03/2006	Monetary		\$10,000.00		
Increase Bail Amount	09/13/2006	Monetary	10.00%	\$150,000.00	Posted	01/02/2007

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



Docket Number: CP-35-CR-0002381-2006

## CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

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Dion Temple

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## CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Date</u>	<u>OTN</u>
1	1	F	35 § 780-113 §§A30	Manuf/Del/Poss/W Int Manuf Or Del	07/06/2006	K5103313
2	2	F3	18 § 7512 §§A	Criminal Use Of Communication Facility	07/06/2006	K5103313
3	4	F	35 § 780-113 §§A30	Criminal Conspiracy Engaging - Manuf/Del/Poss/W Int Manuf Or Del	07/06/2006	K5103313
4	3	F3	18 § 7512 §§A	Criminal Use Of Communication Facility	07/06/2006	K5103313
5	5	F	35 § 780-113 §§A30	Manuf/Del/Poss/W Int Manuf Or Del	07/11/2006	K5103313
6	6	F3	18 § 7512 §§A	Criminal Use Of Communication Facility	07/11/2006	K5103313
7	7	F	35 § 780-113 §§A30	Criminal Conspiracy Engaging - Manuf/Del/Poss/W Int Manuf Or Del	07/11/2006	K5103313
8	8	F3	18 § 7512 §§A	Criminal Use Of Communication Facility	07/11/2006	K5103313

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

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### DISPOSITION SENTENCING/PENALTIES

#### Disposition

#### Case Event

#### Sequence/Description

#### Sentencing Judge

#### Sentence/Diversion Program Type

#### Sentence Conditions

#### Linked Offense - Sentence

#### Disposition Date

#### Offense Disposition

#### Sentence Date

#### Incarceration/Diversionary Period

#### Link Type

#### Final Disposition

#### Grade   Section

#### Credit For Time Served

#### Start Date

#### Linked Docket Number

#### **Lower Court Proceeding (generic)**

#### Lower Court Disposition

- 1 / Manuf/Del/Poss/W Int Manuf Or Del
- 2 / Criminal Use Of Communication Facility
- 3 / Criminal Conspiracy Engaging -  
Manuf/Del/Poss/W Int Manuf Or Del
- 4 / Criminal Use Of Communication Facility

09/13/2006

- Waived for Court (Lower Court)
- Waived for Court (Lower Court)
- Waived for Court (Lower Court)
- Waived for Court (Lower Court)

Not Final

- F   35\$780-113\$A30
- F3   18\$7512\$A
- F   18\$903\$A1
- F3   18\$7512\$A

#### **Guilty**

#### Trial

- 1 / Manuf/Del/Poss/W Int Manuf Or Del
- Geroulo, Vito P.
- Confinement

05/02/2007

Guilty

Final Disposition

- F   35\$780-113\$A30
- 153 Days

08/28/2007

Min of 18.00 Months  
Max of 48.00 Months  
Other

- 18\$7512\$A - Confinement
- 35\$780-113\$A30 - Confinement
- 18\$7512\$A - Confinement
- 35\$780-113\$A30 - Confinement
- 18\$7512\$A - Confinement
- 35\$780-113\$A30 - Confinement
- 18\$7512\$A - Confinement

- Concurrent From Seq. 2
- Concurrent From Seq. 3
- Concurrent From Seq. 4
- Consecutive From Seq. 5
- Concurrent From Seq. 6
- Consecutive From Seq. 7
- Concurrent From Seq. 8

- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006

- 2 / Criminal Use Of Communication Facility

Geroulo, Vito P.  
Confinement

Guilty

08/28/2007

Min of 9.00 Months  
Max of 18.00 Months  
Other

- 35\$780-113\$A30 - Confinement
- 35\$780-113\$A30 - Confinement
- 18\$7512\$A - Confinement
- 18\$7512\$A - Confinement
- 18\$7512\$A - Confinement

- Concurrent To Seq. 1
- Concurrent From Seq. 3
- Concurrent From Seq. 4
- Concurrent From Seq. 6
- Concurrent From Seq. 8

- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006
- CP-35-CR-0002381-2006

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### DISPOSITION SENTENCING/PENALTIES

#### Disposition

#### Case Event

#### Sequence/Description

#### Sentencing Judge

#### Sentence/Diversion Program Type

#### Sentence Conditions

#### Linked Offense - Sentence

#### Disposition Date

#### Offense Disposition

#### Sentence Date

#### Incarceration/Diversionary Period

#### Link Type

#### Final Disposition

#### Grade Section

#### Credit For Time Served

#### Start Date

#### Linked Docket Number

3 / Criminal Conspiracy Engaging -  
Manuf/Del/Poss/W Int Manuf Or Del

Geroulo, Vito P.

Confinement

Guilty

08/28/2007

Min of 15.00 Months

Max of 30.00 Months

Other

Concurrent To Seq. 1

Concurrent To Seq. 2

Concurrent From Seq. 4

Concurrent From Seq. 6

Concurrent From Seq. 8

F

18§903§§A1

35§780-113§§A30 - Confinement

18§7512§§A - Confinement

18§7512§§A - Confinement

18§7512§§A - Confinement

18§7512§§A - Confinement

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CP-35-CR-0002381-2006

CP-35-CR-0002381-2006

4 / Criminal Use Of Communication Facility

Geroulo, Vito P.

Confinement

Guilty

08/28/2007

Min of 9.00 Months

Max of 18.00 Months

Other

Concurrent To Seq. 1

Concurrent To Seq. 2

Concurrent To Seq. 3

Concurrent From Seq. 6

Concurrent From Seq. 8

F3

18§7512§§A

35§780-113§§A30 - Confinement

18§7512§§A - Confinement

35§780-113§§A30 - Confinement

18§7512§§A - Confinement

18§7512§§A - Confinement

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5 / Manuf/Del/Poss/W Int Manuf Or Del

Geroulo, Vito P.

Confinement

Guilty

08/28/2007

Min of 15.00 Months

Max of 48.00 Months

Other

Consecutive To Seq. 1

Concurrent From Seq. 6

Consecutive From Seq. 7

Concurrent From Seq. 8

F

35§780-113§§A30

35§780-113§§A30 - Confinement

18§7512§§A - Confinement

35§780-113§§A30 - Confinement

18§7512§§A - Confinement

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6 / Criminal Use Of Communication Facility

Guilty

F3

18§7512§§A

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### DISPOSITION SENTENCING/PENALTIES

#### Disposition

#### Case Event

#### Sequence/Description

#### Sentencing Judge

#### Sentence/Diversion Program Type

#### Sentence Conditions

#### Linked Offense - Sentence

#### Disposition Date

#### Offense Disposition

#### Sentence Date

#### Incarceration/Diversionary Period

#### Link Type

#### Final Disposition

#### Grade Section

#### Credit For Time Served

#### Start Date

#### Linked Docket Number

Geroulo, Vito P.  
Confinement

08/28/2007

Min of 9.00 Months  
Max of 18.00 Months  
Other

35§780-113§§A30 - Confinement  
18§7512§§A - Confinement  
35§780-113§§A30 - Confinement  
18§7512§§A - Confinement  
35§780-113§§A30 - Confinement  
18§7512§§A - Confinement

Concurrent To Seq. 1  
Concurrent To Seq. 2  
Concurrent To Seq. 3  
Concurrent To Seq. 4  
Concurrent To Seq. 5  
Concurrent From Seq. 8

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CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006

7 / Criminal Conspiracy Engaging -  
Manuf/Del/Poss/W Int Manuf Or Del

Guilty

F

18§903§§A1

Geroulo, Vito P.  
Confinement

08/28/2007

Min of 15.00 Months  
Max of 48.00 Months  
Other

35§780-113§§A30 - Confinement  
35§780-113§§A30 - Confinement  
18§7512§§A - Confinement

Consecutive To Seq. 1  
Consecutive To Seq. 5  
Concurrent From Seq. 8

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CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006

8 / Criminal Use Of Communication Facility

Guilty

F3

18§7512§§A

Geroulo, Vito P.  
Confinement

08/28/2007

Min of 9.00 Months  
Max of 18.00 Months  
Other

35§780-113§§A30 - Confinement  
18§7512§§A - Confinement  
35§780-113§§A30 - Confinement  
18§7512§§A - Confinement  
35§780-113§§A30 - Confinement  
18§7512§§A - Confinement  
35§780-113§§A30 - Confinement

Concurrent To Seq. 1  
Concurrent To Seq. 2  
Concurrent To Seq. 3  
Concurrent To Seq. 4  
Concurrent To Seq. 5  
Concurrent To Seq. 6  
Concurrent To Seq. 7

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CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006  
CP-35-CR-0002381-2006

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### COMMONWEALTH INFORMATION

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## ENTRIES

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1	09/14/2006		Original Papers Received from Lower Court
			Court of Common Pleas - Lackawanna County
1	10/24/2006		Notice of pretrial conference for 10-27
			Commonwealth of Pennsylvania
1	10/25/2006		Information Filed
			Commonwealth of Pennsylvania
1	10/27/2006		Pre-Trial Order of Court
			Geroulo, Vito P.
1	12/29/2006		UPDATED DOCKET TRANSCRIPT FROM LOWER COURT WITH CORRECT BAIL INFORMATION
			Court of Common Pleas - Lackawanna County
1	01/02/2007		Bail Posted - Temple, Dion
			Masten, Diana
1	01/03/2007		Ordered Public Defenders Office be Appointed to Represent Defendant
			Geroulo, Vito P.
1	01/19/2007		Order Granting Motion for Extension of Time to File Omnibus Pre-Trial Motion
			Geroulo, Vito P.
1	02/05/2007		Omnibus Pre-Trial Motion
			Temple, Dion Walker, Paul Joseph

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1	02/08/2007		Hearing scheduled.  Barrasse, Michael J.
1	02/22/2007		Commonwealth's Brief in support of its answer to Omnibus Pretrial Motion  O'Malley, Jason M.
1	02/23/2007		Court Ordered - Listed for Pretrial  Geroulo, Vito P.
1	04/23/2007		AMENDED INFORMATION FILED  O'Malley, Jason M.
1	04/26/2007		Transcript of Proceedings Filed FROM HEARING OF April 18, 2007  Amelia Nikol - Lackawanna Cty Court Reporter
1	05/02/2007		Guilty  Geroulo, Vito P.
2	05/02/2007		Verdict or Verdict Slips Filed  Geroulo, Vito P.
1	08/28/2007		Order - Sentence/Penalty Imposed  Geroulo, Vito P.
2	08/28/2007		Defendant's Rights at Sentencing  Geroulo, Vito P.
1	09/12/2007		Penalty Assessed



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			Court of Common Pleas - Lackawanna County
2	09/12/2007		
			DL-21D NOTICE SENT
			Rinaldi, Mary F.
1	09/26/2007		
			Inmate Body Receipt and Documents Receipt
			Lackawanna County Sheriff's Department
1	09/27/2007		
			Notice of Appeal to the Superior Court
			Jalon, Andres
1	10/02/2007		
			Concise Statement Order
			Geroulo, Vito P.
1	10/05/2007		
			Bail Refund
			Temple, Dion
1	10/09/2007		
			Appeal Docket Sheet from Superior Court of PA; number 1685 MDA07, rec due 11/26/2007
			Superior Court of Pennsylvania - Middle District
1	11/14/2007		
			Certificate and Transmittal of Record to Appellate Court
			Court of Common Pleas - Lackawanna County
1	11/26/2007		
			Superior Court Decision; appeal dismissed for failure of counsel to file a brief
			Superior Court of Pennsylvania - Middle District

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1	12/06/2007	Transcript of Proceedings Of Jury Trial On May 2, 2007 (Morning) Before Judge Geroulo, Courtroom 2 Mary Jane Calzola - Lackawanna Cty Court Reporter
2	12/06/2007	Transcript of Proceedings Of Jury Trial Before Judge Geroulo On May 2, 2007 PM Courtroom 2 Mary Jane Calzola - Lackawanna Cty Court Reporter
3	12/06/2007	Transcript of Proceedings Of Jury Trial On May 1, 2007 Before Judge Geroulo In Courtroom 2 Mary Jane Calzola - Lackawanna Cty Court Reporter
1	01/03/2008	Superior Court Decision; affirmed file returned Court of Common Pleas - Lackawanna County
1	02/19/2008	Post-Conviction Collateral Relief Act Motion Temple, Dion
1	11/24/2008	Response to Defendant's Motion for Post Conviction Collateral Relief Commonwealth of Pennsylvania
1	11/26/2008	Atty Jalon to forward to Atty Lyott case file Geroulo, Vito P.
1	12/15/2008	Pro Se Correspondence; letter inquiring about certified mail (copy rec from Judge Geroulo) Temple, Dion
1	01/07/2009	Transcript of Proceedings of PCRA Hearing Before J Geroulo 11/25/08

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			Tara B. Jones - Lackawanna Cty Court Reporter
1	05/12/2009		Ben Josielewski appt standby PCRA counsel
			Geroulo, Vito P.
1	05/13/2009		Pro se petition for bail pending appeal
			Temple, Dion
2	05/13/2009		Petiton for transcripts
			Temple, Dion
1	05/26/2009		Amended Pkra petition
			Temple, Dion
2	05/26/2009		Pro Se Correspondence
			Temple, Dion
1	06/04/2009		Transcript of Proceedings PCRA Hearing By Video Conference Before Judge Geroulo On April 28, 2009
			Erin Walker - Lackawanna Cty Court Reporter
3	06/04/2009		PCRA is granted in part, appeal rights are reinstated
			Geroulo, Vito P.
1	06/23/2009		Notice of Appeal to the Superior Court
			Temple, Dion
1	06/25/2009		Defendant request to proceed pro se is granted, B. Josielewski as standby
			Geroulo, Vito P.

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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	07/03/2009		Copy of trial transcript sent to defendant
			Court of Common Pleas - Lackawanna County
1	07/09/2009		Transcript of Proceedings Filed; video PCRA conference 6/25/09
			Casie Lynott - Lackawanna Cty Court Reporter
2	07/09/2009		Notice of Appeal to the Superior Court
			Temple, Dion
3	07/09/2009		Motion to Proceed In Forma Pauperis
			Temple, Dion
4	07/09/2009		Letter from defendant to Judge Geroulo
			Temple, Dion
5	07/09/2009		Motion to vacate/reconsider fines costs
			Temple, Dion
1	07/14/2009		Concise Statement Order
			Geroulo, Vito P.
1	07/16/2009		Docketing Statement from Superior Court; number 1142 MDA 09, record due August 24, 2009
			Superior Court of Pennsylvania - Middle District
1	07/20/2009		Request for transcripts
			Temple, Dion

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<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>
2	07/20/2009	
Motion to modify/reduce sentence		Temple, Dion
1	07/22/2009	
Commonwealth's Answer to motion to modify senetence		O'Malley, Jason M.
2	07/22/2009	
Order Denying Motion for Reconsideration of Sentence		Geroulo, Vito P.
1	07/27/2009	
Docketing Statement from Superior Court number 1201 MDA c09, record due Sept. 8, 2009		Superior Court of Pennsylvania - Middle District
1	07/31/2009	
Motion for recusal		Temple, Dion
1	08/04/2009	
Concise Statement of Errors Complained on Appeal		Temple, Dion
2	08/04/2009	
Request for copies of file		Temple, Dion
1	08/12/2009	
Copy of trial transcript to be prepared and sent to standby counsel		Geroulo, Vito P.
1	08/19/2009	
Copy of file sent to defendant		Court of Common Pleas - Lackawanna County

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1	08/24/2009		Transmittal of Record to Appellate Court  Court of Common Pleas - Lackawanna County
1	09/29/2009		Rule 1925 a statement  Geroulo, Vito P.
1	09/30/2009		Supplemental record sent to superior court  Court of Common Pleas - Lackawanna County
1	10/20/2009	10/20/2009	ltr fwd to Judge Geroulo re: motion to modify and reduce sentence nunc pro tunc  Temple, Dion
1	10/21/2009		Superior Court Order; petition for bail denied and ret to lower ct, application for transcript of se  Superior Court of Pennsylvania - Middle District
1	10/29/2009		Order Denying Motion for the Setting of Bail Pending Appeal  Geroulo, Vito P.
2	10/29/2009		Order Denying Motion for Modification of Sentence  Geroulo, Vito P.
1	11/09/2009		Pro Se Correspondence; letter from defendant fwd to Judge Geroulo  Temple, Dion
1	11/12/2009		Superior Court Order; appeal at 1142MDA09 is dismissed as duplicative  Superior Court of Pennsylvania - Middle District

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<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	11/17/2009		Transcript of sentence 8/28/07
			Mark Wozniak - Lackawanna Cty Court Reporter
1	11/19/2009		Supplemental record sent to superior court
			Court of Common Pleas - Lackawanna County
1	12/08/2009		Superior Court Decision; appeal discontinued and Atty Josielewski withdraws as stanby counsel, file
			Superior Court of Pennsylvania - Middle District
1	12/17/2009	12/17/2009	motion to modify and reduce sentence NUNC PRO TUNC fwd to Judge Geroulo
			Temple, Dion
2	12/17/2009	12/17/2009	request for transcript form forwarded to def AGAIN
			Temple, Dion
1	12/18/2009		Motion to modify sentence nunc pro tunc
			Temple, Dion
1	12/21/2009		Motion to Withdraw Appearance and counsel fees
			Josielewski, Ben
2	12/21/2009		Order Granting Motion to Withdraw Counsel and fees to be paid
			Geroulo, Vito P.
1	12/23/2009		Order Denying Motion for Modification of Sentence Nunc Pro Tunc
			Geroulo, Vito P.

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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>
1	03/08/2010	
Post-Conviction Collateral Relief Act Motion		Temple, Dion
2	03/08/2010	
Statement of facts		Temple, Dion
3	03/08/2010	
Motion for return of property		Temple, Dion
4	03/08/2010	
Motion to dismiss for lack of Jurisdiction		Temple, Dion
5	03/08/2010	
Petition for writ of mandamus		Temple, Dion
6	03/08/2010	
Motion for ifp		Temple, Dion
7	03/08/2010	
Notice of default		Temple, Dion
8	03/08/2010	
Cease and desist		Temple, Dion
1	03/25/2010	
Rule is granted on commonwealth; defendant is to proceed prose; ifp status granted		Geroulo, Vito P.
1	03/31/2010	
Letter from clerks office to defendant requesting exactly what he requires as to copies of file		



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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
			Court of Common Pleas - Lackawanna County
1	04/16/2010		Supplement to PCRA petition, request for transcripts (fwd to Amelia Nicol by clerks office), letter Temple, Dion
1	04/20/2010		Transcript of sentence Mark Wozniak - Lackawanna Cty Court Reporter
1	04/21/2010		Transcript of Proceedings Of Sentencing Before Judge Geroulo On August 28, 2007 Mark Wozniak - Lackawanna Cty Court Reporter
1	04/23/2010		Commonwealth's answer to PCRA Scanlon, Ryan Michael Austria, Stephanie Lynne
1	05/11/2010		Order and affidavit regarding latest request from defendant Court of Common Pleas - Lackawanna County Geroulo, Vito P.
1	05/12/2010		Motion for bail pending appeal Temple, Dion
1	05/25/2010		Order Denying Motion for the Setting of Bail Pending Appeal as no appeal is on file Geroulo, Vito P.
1	06/02/2010		Motion for recusal (fwd to Judge Geroulo) Temple, Dion

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1	06/15/2010	
Motion for bail pending appeal (fwd to J. Geroulo)		Temple, Dion
2	06/15/2010	
Motion to reduce sentence nunc pro tunc (fd to J. Geroulo)		Temple, Dion
3	06/15/2010	
Motion for mandamus (fwd to J. Geroulo)		Temple, Dion
4	06/15/2010	
List of questions from defendant, (answered 6/23/10 clerks office)		Temple, Dion
1	07/01/2010	
Order Denying Motion for Recusal Filed		Geroulo, Vito P.
1	07/02/2010	
Motion to remove atty's Walker and Josielevski from docket; t'wd to Judge Geroulo and da		Temple, Dion
1	07/06/2010	
Supplement to PCRA/Amended PCRA petition/Memorandum of Law letter from Judge Harhut		Temple, Dion
1	07/14/2010	
Order Denying Motion for the Setting of Bail Pending Appeal		Geroulo, Vito P.
1	07/15/2010	
Transcript of Proceedings Of Pre-Trials Before Judge Geroulo On October 27, 2006		Lisa Graff - Lackawanna Cty Court Reporter

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



Docket Number: CP-35-CR-0002381-2006

## CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Dion Temple

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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	07/23/2010		Letter to Judges; not forwarded to Judge Geroulo at request of defendant Temple, Dion
2	07/23/2010		Petition for bail pending appeal; not forwarded to Judge Geroulo at request of defendant Temple, Dion
1	07/26/2010		Pro Se Correspondence Temple, Dion
1	07/29/2010		Motion to dismiss per rule 600 Temple, Dion
1	08/04/2010		Pro Se Correspondence; request to remove atty Walker and Josielewski from docket(fwd to Judge Geroulo) Temple, Dion
1	08/05/2010		Commonwealth's Answer to supplemental motion for PCRA Austria, Stephanie Lynne
2	08/05/2010		Pro se motion to dismiss and affidavit(judge Geroulo and DA served) Temple, Dion
1	08/24/2010		Order Denying Motion to Dismiss Geroulo, Vito P.
1	08/25/2010		Pro Se Correspondence to correct docket entry (done) Temple, Dion
1	09/14/2010		application for bail pending appeal/pcra (received from Superior Court) Temple, Dion

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



Docket Number: CP-35-CR-0002381-2006

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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	09/20/2010		Order Denying Motion to Set Bail
			Geroulo, Vito P.
1	10/01/2010		Letter Judge Geroulo
			Temple, Dion
1	10/19/2010		Reply brief for appellant
			Temple, Dion
2	10/19/2010		Writ of error in nature of motion for dismissal
			Temple, Dion
1	10/29/2010	10/29/2010	letter received this date forwarded to Civil Division
			Temple, Dion
2	10/29/2010		Notice of Appeal to the Superior Court
			Temple, Dion
1	11/10/2010	11/10/2010	Letter
			Temple, Dion
1	11/16/2010	11/16/2010	private criminal complaint forwarded to DA's and Judge Geroulo and Judge Moyle
			Temple, Dion
1	11/18/2010	11/18/2010	private complaint/request for documents/motion for recusal
			Temple, Dion Walker, Paul Joseph

# COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

## DOCKET



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## ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	11/30/2010	11/30/2010	private criminal complaint/Jason O'Malley
			Temple, Dion
1	12/08/2010		Docketing Statement from Superior Court File Due 12/28/10
			Superior Court of Pennsylvania - Middle District
1	12/15/2010	12/15/2010	letter addressed to Judge Geroulo
			Temple, Dion
1	12/22/2010	12/22/2010	fwd ltr to Judge Geroulo, DA and Civil Div
			Temple, Dion
1	01/03/2011	01/03/2011	fwd copies of docket sheets to def per his request
			Temple, Dion
1	01/05/2011		SUPERIOR COURT ORDER APPEAL IS DISMISSED FOR FAILURE OF THE APPELLANT TO COMPLY WITH PA R.A.P. 351
			Superior Court of Pennsylvania - Middle District

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these reports. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

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**COURT OF COMMON PLEAS OF LACKAWANNA COUNTY****DOCKET**

Docket Number: CP-35-CR-0002381-2006

**CRIMINAL DOCKET**

Court Case



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**CASE FINANCIAL INFORMATION**

<b>Temple, Dion</b>	<b>Assessment</b>	<b>Payments</b>	<b>Adjustments</b>	<b>Non Monetary</b>	<b>Total</b>
Defendant				<u>Payments</u>	
ATJ	\$2.00	-\$2.00	\$0.00	\$0.00	\$0.00
Judicial Computer Project	\$8.00	-\$8.00	\$0.00	\$0.00	\$0.00
ATJ	\$2.00	-\$2.00	\$0.00	\$0.00	\$0.00
County Costs (Lackawanna)	\$18.00	-\$18.00	\$0.00	\$0.00	\$0.00
DA's Drug Program (Lackawanna)	\$350.00	-\$285.90	\$0.00	\$0.00	\$64.10
Trial J/NJ (Lackawanna)	\$160.00	-\$160.00	\$0.00	\$0.00	\$0.00
Superior Court Appeal (Lackawanna)	\$45.00	-\$45.00	\$0.00	\$0.00	\$0.00
Bail Poundage (Lackawanna)	\$170.00	-\$170.00	\$0.00	\$0.00	\$0.00
Costs/Fees Totals:	\$1,455.00	-\$818.90	\$0.00	\$0.00	\$636.10
<b>Fines</b>					
Crimes Code, etc.	\$5,000.00	\$0.00	\$0.00	\$0.00	\$5,000.00
Fines Totals:	\$5,000.00	\$0.00	\$0.00	\$0.00	\$5,000.00
Grand Totals:	\$6,455.00	-\$818.90	\$0.00	\$0.00	\$5,636.10

\*\* - Indicates assessment is subrogated

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